

REMARKS

Independent claims 1 and 22 have been amended to more clearly define the present invention and set forth a core with compressible particulates along with polymer particles with an oil disposed between the particulates and products in order to provide a core having resilient characteristics of tri-block co-polymer elastomers utilizing a plasticizing oil.

No new matter is added by this amendment and inasmuch as this disclosure is present in the original specification on page 6, beginning at line 30. Further, the polymer particles were earlier claimed in dependent claims and now introduced into the independent claims.

The Examiner has rejected claims 1-3 and 22 under 35 USC 102(b) as being anticipated by U.S. 3,840,920 to Voelker. In this rejection, the Examiner states that Voelker discloses a cushion with a backing (23) and a cover (24) that is stretched over a selected contour.

Voelker teaches a box filled with balls of acetate that have been coated with a tetrafluoroethylene to reduce friction between the balls or a lubricant therebetween.

It is clear that these balls are not compressible particulates as presently claimed, nor is there present in any teachings of the Voelker reference of separate polymer particulates utilized to control the resiliency of the core which has the characteristics of tri-block co-polymer elastomer utilizing a plasticizing oil.

Since these elements are not taught by Voelker, a rejection under 35 USC 102(b) is not sustainable. Accordingly, the Applicant respectfully requests the Examiner to withdraw the rejection of claims 1-3 and 22 on the basis of 35 USC 102(b) relying on Voelker.

Additionally, the Examiner has rejected claims 4, 5 and 23-34 under 35 USC 103(a) as being unpatentable over U.S. 5,954,303 to Wolf, et al. in view of Voelker. In this rejection, the Examiner states that Wolf, et al. discloses a cover sheet (32) that is stretched and can be molded to a slightly contour. The cover prevents leakage, has a backing (16) and there is a core disposed within the cover with an elastomer between the core and the cover.

The Examiner acknowledges that Wolf, et al. does not specifically disclose the exact combination of particulates disposed within the oil but does disclose that a number of materials can be used alone or in combination for the core. The Examiner speculates that these materials include open or close cell foam liquid or particulate filled bags of gel which include oil.

The Examiner relies on Voelker for disclosing the core with particulates disposed within the oil as discussed and concludes that it would have been obvious to one of ordinary skill in the art at the time the present invention was made to have utilized the core taught by Voelker in place of the core taught by Wolf, et al. for the purpose of providing a core that provides a user increase comfort when using the pad.

The Applicant submits that while, as an abstract proposition, it might be possible to select certain statements from one reference to mechanically combine them in another reference to arrive at the Applicant's claimed combination there is no basis for making such a combination; only the Applicant's specification suggest any reason for combining the teachings of the prior art, but the use of such suggestion is, of course, improper under the mandate of 35 USC 103. In re Pye and Peterson, 148 USPQ 426 (CCPA 1966).

The Applicant submits that the Wolf and Voelker are stand-alone wrist supports and adjustable mattresses for pregnant mothers and that there is no positive concrete evidence of record that justifies the combination. The Examiner is merely substituting the core of the Voelker reference for the cover of the Wolf, et al. reference and such combination would only be suggested by the Applicant's disclosure.

Accordingly, the Applicant submits that the Examiner has not made a prima facie case of obviousness and accordingly respectfully request the Examiner to withdraw the rejection of claims 4, 5 and remaining claims 23-28 under 35 USC 103(a).

In view of the arguments hereinabove set forth and amendment of the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references

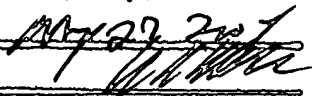
of record. Reconsideration and allowance are respectively requested.

Respectfully submitted,



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